

Senate Judiciary Committee Amendment # 2

Amendment No. 2 to SB3038

**Beavers
Signature of Sponsor**

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 3038

House Bill No. 2882*

By deleting Section 55-50-906(c) of the amendatory language of SECTION 1 as amended and substituting instead the following:

(c) The department shall revoke the driving privilege of any person upon its determination that by a preponderance of the evidence the results of the breathalyzer test or the chemical blood test show the person drove or was in actual physical control of a motor vehicle while:

(1) the alcohol concentration in the person's blood or breath was:

(A) eight hundredths of one percent (.08%) or more, for a person age twenty-one (21) or older;

(B) two hundredths of one percent (.02%) or more, for a person under the age of twenty-one (21); or,

(3) four hundredths of one percent (.04%) or more for a person operating or having actual physical control of a commercial motor vehicle; or,

(2) the person's blood contained the presence of drugs.

FURTHER AMEND by deleting Section 55-50-908(c) of the amendatory language of SECTION 1 as amended and substituting instead the following:

(c) The sole issues at the hearing shall be whether by a preponderance of the evidence:

(1) The person refused a chemical analysis; or, if not

(2) The results of the breathalyzer test or chemical blood tests show the person drove or was in actual physical control of a motor vehicle while such person:

(A) Had an alcohol concentration of eight-hundredths of one percent (.08%) or more;

(B) Was under twenty-one (21) and had an alcohol concentration of (.02%) or more; or,

(C) Was operating or had actual physical control of a commercial motor vehicle and had an alcohol concentration of (.04%) or more; or,

(3) Had drugs present in the person's blood sample.

If the presiding hearing officer finds the affirmative of subdivision (1), (2) or (3), the written determination shall be sustained. If the presiding hearing officer finds the negative of subdivisions (1), (2) and (3), the written determination shall be rescinded.